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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/731,449	12/09/2003	Robert E. Fischell	CRD-5023	4412

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EXAMINER

WEBB, SARAH K

ART UNIT	PAPER NUMBER
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3731

DATE MAILED: 11/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/731,449

Applicant(s)

FISCHELL ET AL.

Examiner

Sarah K. Webb

Art Unit

3731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 July 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 and 28-34 is/are pending in the application.
- 4a) Of the above claim(s) 5,8 and 28-34 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4,6,7 and 9-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 10/14/04.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application
- ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Claims 5,8, and 28-34 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species of invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 7/20/06. Claims 5,8, and 28-34 do not read on the elected species illustrated in Figure 4.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4,6,7,9,10, and 16-22 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 6,165,195 to Wilson et al.

Wilson discloses a balloon catheter for delivery of a side branch stent, as illustrated in Figures 7A-11D. The catheter has an outer guide wire tube (39A) that has a proximal portion attached to the catheter and a distal portion (39B) attached to the outer surface of the balloon. The device also includes an inner guide wire lumen (34) with a fixed guide wire (36). Regarding claim 9, the guide wire tube has a slit (39d) in between these portions. Regarding claim 10, the proximal end of the stent is angled greater than 20 degrees relative to the longitudinal axis of the balloon.

Regarding claim 16: the balloon of Wilson is capable of exhibiting a flare at the distal

Art Unit: 3731

end of the guide wire tube (39) if positioned on a curve, as illustrated in Figure 4 of applicant's disclosure. Regarding claim 19, limitations directed toward a main branch stent are considered to be recitations of intended use, since a main branch stent is not part of a side branch stent delivery system. Therefore, claim 19 is not given patentable weight. Nonetheless, a main branch stent and delivery system are also disclosed (Figures 12A-22).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 11-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilson et al. in view of 6,749,628 to Callol et al.

Wilson fails to include a drug coated on the stent. Callol discloses another bifurcated stent system and teaches that the stent should be coated with a drug to reduce the possibility of restenosis. Callol further teaches that paclitaxel and heparin are suitable drugs for this purpose (column 19, line 28 to column 20). It would have been obvious to one of ordinary skill in the art at the time the invention was made to coat the Wilson stent with a drug, as taught by Callol, in order to reduce the likelihood of restenosis after the repair of the bifurcated vessel.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah K. Webb whose telephone number is (571) 272-4706. The examiner can normally be reached on Mon-Fri 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan T. Nguyen can be reached on (571) 272-4963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SKW

11/13/06

Julian W. Woo

**JULIAN W. WOO
PRIMARY EXAMINER**